

FILED

SEP 26 2002

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

INDIANA UTILITY
REGULATORY COMMISSION

In the Matter of the Petition of)
Indiana Bell Telephone Company,)
Incorporated d/b/a Ameritech Indiana)
Pursuant to I.C. 8-1-2-61 For a Three) Cause No. 41657
Phase Process For Commission)
Review of Various Submissions of)
Ameritech Indiana to Show Compliance)
with Section 271(c) of The Telecommunications)
Act of 1996)

**MOTION OF AMERITECH INDIANA FOR PROTECTION OF
CONFIDENTIAL AND PROPRIETARY INFORMATION**

Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana ("Ameritech Indiana"), by counsel, pursuant to Ind. Code §8-1-2-29, §5-14-3-4 and §24-2-3-1 *et. seq.*, and 170 IAC 1-1.1-4 respectfully requests the Indiana Utility Regulatory Commission ("Commission") enter an order accepting a proprietary filing, on an emergency basis if necessary, prohibiting dissemination outside of the Commission and adopting safeguards for the handling of certain confidential, proprietary, competitively sensitive or trade secret information of Ameritech Indiana, its parent corporation, affiliates, Competitive Local Exchange Carrier (CLEC) and/or other third parties. In support of this motion, Ameritech Indiana submits:

1. This motion seeking a protective order is filed to protect certain confidential, proprietary, competitively sensitive, or trade secret information (the "Confidential Information") that will be submitted to the Commission in connection with Ameritech Indiana's filing of its Checklist Informational Filing with the Commission. Specifically, the Confidential Information is the following:

- Attachment A to the affidavit of Chris Nations: this attachment details Indiana CLEC specific information related to Facility-based CLECs utilizing Ameritech Operator /Directory Services
- Attachment C to the affidavit of Deborah O. Heritage: this attachment details Indiana CLEC specific information related to Facility-based CLEC Company Profiles.
- Attachment F to the affidavit of Deborah O. Heritage: this attachment details Indiana CLEC specific information for E911 Facility-based CLECs, UNE-P CLEC lines, Stand-alone CLEC UNE loops, Operational CLEC Interconnection trunks, CLEC collocations, and CLEC resold lines.

2. The Confidential Information (i) is such that it may derive actual and potential independent economic value from being neither generally known to, nor readily ascertainable by, persons who could obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Such Confidential Information, if disclosed to Ameritech Indiana's competitors, vendors, or customers, or otherwise made publicly available, would have a substantially detrimental effect on the CLEC named or Ameritech Indiana. The Confidential Information therefore constitutes a trade secret under Indiana law and is entitled to protection from disclosure by the Commission. The Confidential Information may also include information which Ameritech Indiana is bound not to disclose pursuant to agreements with CLECs or pursuant to law. By this motion for protective order, Ameritech Indiana seeks protection of the Confidential Information both being submitted herewith and which may be later submitted.

3. This Motion is supported by the affidavit of Thomas J. Hess, attached hereto as Exhibit A.

4. Based upon the above description of materials for which Ameritech Indiana seeks protection and the affidavit of Thomas J. Hess, Ameritech Indiana requests the Commission find that the Confidential Information appears to be confidential and trade secret within the meaning of Ind. Code §5-14-3-4(a) as defined by Ind. Code §24-2-3-2, and accept Ameritech Indiana's proprietary submission for the limited purpose of allowing Ameritech Indiana safely to submit the Confidential Information under seal for an *in camera* inspection by the presiding Administrative Law Judge and the Commission for a final determination of the appropriateness of Ameritech Indiana's request for protection. Ameritech Indiana proposes that it be allowed to submit a copy of the materials for which protection is sought with the Commission in a sealed envelope, designating that the contents are confidential and proprietary material filed by Ameritech Indiana and which is marked to the attention of the presiding Administrative Law Judge. Based upon the description of the Confidential Information, Ameritech Indiana requests that the Commission accept the materials only upon a finding in a preliminary order that the Confidential Information is confidential and a trade secret.

5. Upon a final determination that the information is confidential and/or trade secret, Ameritech Indiana proposes the Commission adopt the following procedures to assure the protection of such Confidential Information submitted by Ameritech Indiana:

- a) That the submitted information will be made available solely for inspection by certain designated employees of the Commission and its Staff for the purposes of their analysis;

- b) That the information be specifically filed, secured and under the control of a responsible person;
- c) That any Commission employee or Staff member receiving access to such information be under an obligation to secure and maintain exclusive control of documents, to refrain from directly or indirectly allowing public disclosure of such information and to refrain and prohibit the copying and reproduction of the information;
- d) That any documents, materials or reports prepared by Commission employees or Staff members not have the effect of disclosing the Confidential Information; and
- e) That no Commission employee or Staff member should have access to the information without first acknowledging in writing prior to access, the existence of an order providing for confidential treatment, the need to treat this information in accordance with the provisions thereof, and the sanctions which may be imposed for unauthorized disclosure of such information. Ameritech Indiana believes the proposed procedures are consistent with procedures followed by the Commission in similar situations.

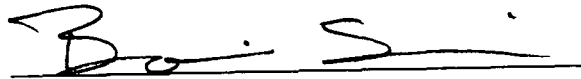
WHEREFORE, Ameritech Indiana moves:

A. That the Commission find the Confidential Information preliminarily confidential and a trade secret and accept Ameritech Indiana's proprietary submission for the limited purpose of allowing Ameritech Indiana safely to submit the information to the Commission and thereafter make a final determination that the information is confidential, proprietary, competitively sensitive and trade secret within the meaning of Ind. Code §5-14-3-4(a) as defined by Ind. Code §24-2-3-2 and therefore excepted from disclosure under Ind. Code §8-1-2-29;

B. That the Commission adopt the procedures set forth herein to ensure that the information is appropriately secured and made available only to the appropriate Commission employee or members of the Commission Staff on a need-to-know basis, and who are under an obligation not to disclose such information to any third party; and

C. Grant such other and further relief to Ameritech Indiana, as the Commission may deem appropriate in the premises.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Bonnie K. Simmons", written over a horizontal line.

Bonnie K. Simmons (#12067-49)
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AFFIDAVIT OF THOMAS J. HESS

Thomas J. Hess upon his oath, deposes and states:

1. I am employed as Director – Wholesale Issues/271 of Indiana Bell Telephone Company, Incorporated d/b/a Ameritech Indiana (“Ameritech Indiana”) I have personal knowledge of the data relevant to the Motion for Protective Order furnished to the Commission in this Cause. I was involved in the compilation of the materials filed in this Cause. I have personal knowledge of efforts taken by Ameritech Indiana to maintain the secrecy of the data through direct contact with these efforts and through my investigation of these efforts with other Ameritech Indiana, SBC, and Ameritech employees who work directly with these procedures. I have personal knowledge of the confidential, proprietary and trade secret nature of said data through direct contact with said data and through my investigation with other Ameritech Indiana, SBC, and Ameritech employees who work directly with said data.

EXHIBIT A

2. The data identified as confidential, and therefore included with the Confidential Information, is the following:

- Attachment A to the affidavit of Chris Nations: this attachment details Indiana CLEC specific information related to Facility-based CLECs utilizing Ameritech Operator /Directory Services
- Attachment C to the affidavit of Deborah O. Heritage: this attachment details Indiana CLEC specific information related to Facility-based CLEC Company Profiles.
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3. This information if disclosed would be of economic value to third parties, such as competitors or telecommunications consultants, because it would permit these parties to have access to CLEC data which is extremely proprietary and would lead to a significant understanding of CLEC business intentions.

4. Ameritech Indiana agrees in its interconnection agreements, and is otherwise required, to maintain the confidentiality of CLEC proprietary information. These reports contain information that is confidential, proprietary and trade secret. No amount of independent research could yield this information to CLECs existing or potential competitors, vendors, or customers.

5. The Confidential Information is the subject of extensive efforts by Ameritech Indiana to maintain its secrecy. Access to the Confidential Information is restricted, even as to persons employed by Ameritech (*i.e.*, physical safeguards, system password protection, limited distribution of reports, etc.). Ameritech Indiana limits public access to buildings housing the Confidential Information by use of security guards. Persons not employed by Ameritech Indiana, SBC or Ameritech who are allowed past security guards at buildings where Confidential Information is kept are not permitted to walk within such buildings without an escort. In addition to the security maintained at Ameritech Indiana's buildings and work areas where Confidential Information is kept, information included within the Confidential Information is further restricted to reference and use by Ameritech Indiana, SBC, and Ameritech personnel and their management control on a "need to know" basis.

6. The nature of the Confidential Information is such that it derives actual and potential economic value from being neither generally known to, nor readily ascertainable by, persons who could obtain economic value from its disclosure or use. The Confidential Information is not in the public domain and disclosure would be useful to current or potential competitors, other vendors, and customers to evaluate market potential and/or market entry decisions, as the case may be. Should the Confidential Information fall into the possession of any current or prospective competitor, vendor, or customer of the CLECs or Ameritech Indiana, such disclosure would have a substantial detrimental effect. . Information in these reports could be used by competitors to determine competitively useful information regarding CLEC activities.

Further, this information could be used to determine patterns of business activity that reflect market share held by Ameritech Indiana and by other CLECs.

7. So that the confidential, proprietary, competitively sensitive or trade secret information ("Confidential Information") could be readily identified and easily handled, and to avoid any subsequent mistake, disagreement or misunderstanding between the parties and Ameritech Indiana as to the confidentiality of all or any part of the Confidential Information, the Confidential Information is and will be provided to the Commission on colored paper and specifically stamped "Confidential."

Further the Affiant sayeth nothing more.

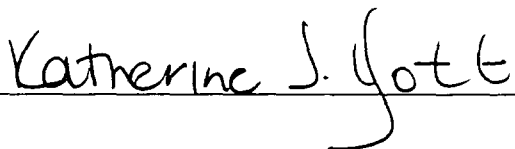
Dated: 9-24-02

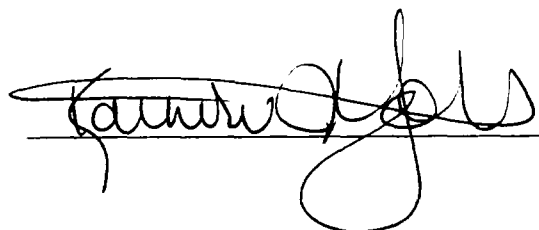


Thomas J. Hess

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Thomas J. Hess appeared before me, a Notary Public in and for this County and State, and swore that the foregoing statements are true.





Printed

My Commission Expires:

7-3-09

Signature

My County of Residence:

Boone

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served electronically upon the following this ~~26~~²⁷ day of September, 2002.

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